

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated September 21, 2009 (hereinafter Office Action) have been considered. Claims 62-119 remain pending in the application. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

The undersigned thanks Examiner Alter and Examiner Evanisko for taking the time to discuss this case on December 2nd, 2009.

Claims 62-119 are rejected based on 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. In the Office Action and during the interview, the Examiners took the position that the inclusion of the word “different” in claim 62, for example, is not supported by the specification because “different” could mean different in some way that is not specifically recited in the specification. The Examiners suggested that removing the word “different” while retaining the terms “a first capture detection region” and “a second capture detection region” would alleviate their concerns regarding the word “different.” The Examiner Evanisko indicated that the term “second capture detection region” would be sufficient to indicate that the second capture detection region is a different capture detection region than the first capture detection region. To facilitate prosecution and move the case to allowance, Applicants agreed to accept the Examiners’ proposed claim language that eliminates the term “different.”

Independent claims 62, 89, and 118 have been amended to remove the phrase including the word “different.” Dependent claims 68 and 99 have been amended to maintain consistency with the independent claims from which they depend. Applicants respectfully assert that there is ample support in the specification for the term “different” as it is used in the independent claims. Applicants respectfully assert that neither removal of the word “different” nor the rearrangement of the claim language from “triggering sensing in a second capture detection region” to “triggering a second capture detection region and sensing” narrow the claims. The rejection under 35 U.S.C. §112, first paragraph is now moot. The Applicant respectfully requests that this rejection be withdrawn.

Claims 62-119 are rejected based on 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,319,900 to Kim et al. (hereinafter “Kim”). Independent claims 62, 89, and 118 all express in some form triggering a second capture detection region and sensing for a second cardiac peak within the second capture detection region.

The rejection of claims 62-119 based on Kim was discussed in the December 2nd interview. During the interview, Examiner Alter did not point to any additional support for the rejection based on Kim, but agreed to look at Kim more closely for triggering sensing for a second peak in a second region in response to a first peak detected in a first region.

The Applicant respectfully asserts that Kim does not describe triggering a second capture detection region and sensing for a second peak in the second region in response to detecting a first cardiac peak in a first capture detection region. On page 3, the Office Action refers to Figure 15 of Kim as describing the detection of the first cardiac signal peak in a first window triggering the sensing for the second cardiac peak in a second capture detection region. The Applicant respectfully disagrees. Kim does not describe triggering sensing for a second cardiac peak in a second capture detection region in response to detecting cardiac peak in a first capture detection region. For at least these reasons independent claims 62, 89, and 118 are allowable over the cited reference.

Claims 63-88, 90-117, and 119 are dependent from independent claims 62, 89, and 118. It is believed that the rejections listed above are now moot in view of the comments made with regard to independent claims 62, 89, and 118. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited reference. Therefore, dependent claims 63-88, 90-117, and 119 are also in condition for allowance.

To the extent Applicants have not responded to any characterization by the Examiner of the asserted art or of Applicants’ claimed subject matter, or to any application by the Examiner of the asserted art to any claimed subject matter, Applicants wish to make clear for the record that any such lack of response should not be interpreted as an acquiescence to such characterizations or applications. A detailed discussion of each of the Examiner’s characterizations, or any other assertions or statements beyond that provided

above is unnecessary. Applicants reserve the right to address in detail any such assertions or statements in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (GUID.142PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the Examiner is invited to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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Date: December 21, 2009

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